

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF MONTANA  
GREAT FALLS DIVISION

UNITED STATES OF AMERICA,

Plaintiff,

vs.

BRUCE JOHN DENNY,

Defendant.

CR 13-115-BMM

**FINDINGS AND  
RECOMMENDATIONS TO  
REVOKE DEFENDANT'S  
SUPERVISED RELEASE**

**I. Synopsis**

The United States accused Mr. Denny of violating his conditions of supervised release by missing a scheduled urinalysis, providing a urine sample that tested positive for Oxycodone, and failing to complete substance abuse treatment. He admitted to the violations. Mr. Denny's supervised release should be revoked. He should be sentenced to six months in custody, with forty-eight months of supervised release to follow.

**II. Status**

United States District Judge Brian Morris sentenced Mr. Denny to 366 days

in custody, with sixty months of supervised release to follow, on September 4, 2014, after he pleaded guilty to Abusive Sexual Contact Without Permission. Mr. Denny began his first term of supervised release on August 17, 2015.

Judge Morris revoked Mr. Denny's supervised release on March 1, 2016, because he failed to report for urinalysis testing and sexual offender treatment sessions, tested positive for methamphetamine, and failed to enroll in substance abuse treatment. (Doc. 72.) Judge Morris sentenced him to two months in custody followed by fifty-four months of supervised release. (*Id.*) Mr. Denny began his current term of supervised release on April 22, 2016.

The United States Probation Office filed a Report on Offender Under Supervision on October 18, 2016, notifying the Court that Mr. Denny failed to (1) enroll in substance abuse treatment, (2) appear for sweat patch removal and application, and (3) attend sexual offender treatment. (Doc. 75.) Judge Morris allowed him to continue his supervised release.

The Probation Office filed a Petition for Warrant for Offender Under Supervision on December 29, 2016, alleging that Mr. Denny violated the conditions of his supervised release by missing sexual offender treatment sessions, being terminated from outpatient aftercare, failing to appear for sweat-patch removal and application, and failing to submit monthly reports. (Doc. 76.) The

United States moved to have the petition dismissed and recommended that Mr. Denny be placed on zero-tolerance supervision. The undersigned dismissed the petition.

### **Petition**

The Probation Office filed a petition asking the Court to revoke Mr. Denny's supervised release on June 1, 2017. (Doc. 88.) In the petition, the Probation Office accused Mr. Denny of violating the conditions of his supervised release by missing a scheduled urinalysis, providing a urine sample that tested positive for Oxycodone, and failing to complete substance abuse treatment. (*Id.*) Based on the petition, Judge Morris issued a warrant for Mr. Denny's arrest. (Doc. 89.)

### **Initial appearance**

Mr. Denny appeared before the undersigned on June 12, 2017, in Great Falls, Montana. Federal Defender Hank Branom accompanied him at the initial appearance. Assistant United States Attorney Jessica Betley represented the United States.

Mr. Denny said he had read the petition and understood the allegations. He waived the preliminary hearing, and the parties consented to proceeding before the undersigned. The hearing commenced.

### **Revocation hearing**

Mr. Denny admitted that he violated his supervised release. The admitted violations are serious and warrant revocation of his supervised release.

Mr. Denny's violation grade is Grade C, his criminal history category is I, and his underlying offense is a Class E felony. He could be incarcerated for up to twelve months. He could be ordered to remain on supervised release for five years to life. The United States Sentencing Guidelines call for three to nine months in custody.

Mr. Branom and Ms. Betley agreed that Mr. Denny should be incarcerated for six months, with forty-eight months of supervised release to follow. Mr. Denny addressed the Court and stated that he has chronic pain and is seeking a prescription for pain medication from a doctor.

### **III. Analysis**

Mr. Denny's supervised release should be revoked because he admitted violating its conditions. Mr. Denny should be incarcerated for six months, with forty-eight months of supervised release to follow. This sentence would be sufficient given the seriousness of the violations but would not be greater than necessary.

### **IV. Conclusion**

Mr. Denny was advised that the above sentence would be recommended to Judge Morris. The Court reminded him of his right to object to these Findings and Recommendations within 14 days of their issuance. The undersigned explained that Judge Morris would consider his objection, if it is filed within the allotted time, before making a final determination on whether to revoke his supervised release and what, if any, sanction to impose.

The undersigned **FINDS:**

Bruce John Denny violated the conditions of his supervised release by missing a scheduled urinalysis, providing a urine sample that tested positive for Oxycodone, and failing to complete substance abuse treatment.

The undersigned **RECOMMENDS:**

The District Court should enter the attached Judgment, revoking Mr. Denny's supervised release and committing him to the custody of the United States Bureau of Prisons for six months, with forty-eight months of supervised release to follow.

**NOTICE OF RIGHT TO OBJECT TO FINDINGS AND  
RECOMMENDATIONS AND CONSEQUENCES OF FAILURE TO  
OBJECT**

The parties may serve and file written objections to the Findings and Recommendations within 14 days of their entry, as indicated on the Notice of Electronic Filing. 28 U.S.C. § 636(b)(1). A district judge will make a de novo

determination regarding any portion of the Findings and Recommendations to which objection is made. The district judge may accept, reject, or modify, in whole or in part, the Findings and Recommendations. Failure to timely file written objections may bar a de novo determination by the district judge, and may waive the right to appear and allocute before a district judge.

Dated the 14th day of June 2017.



John Johnston  
United States Magistrate Judge